IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

OP.No. 11375 of 2002(D)

PETITIONER:

DR.M.RAMESH KUMAR S/O.KELU,
ASST.PROFESSOR,CONSERVATIVE DENTISTRY,
DENTAL COLLEGE,KOZHIKODE.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS:
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1. **STATE OF KERALA,REPRESENTED BY SECRETARY TO GOVERNMENT,DEPARTMENT OF HEALTH AND FAMILY WELFARE,TRIVANDRUM.**

2. **THE DIRECTOR OF MEDICAL EDUCATION, TRIVANDRUM**

BY GOVERNMENT PLEADER SMT.T.B.RAMANI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.11375/2002

ORDER ON CMP. NO.19875/2002 IN OP. NO.11375/2002

DISMISSED

26.07.2007 SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE 2ND RESPONDENT NO.F4/18353/87/LME DT. 6.10.87.

EXT.P2:- COPY OF THE G.O.(RT) NO.278/99/H & FWD DT. 1.2.99.

EXT.P3:- COPY OF THE G.O.(RT) NO.3045/99/H & FWD DT. 6.11.99.

EXT.P4:- COPY OF THE REPRESENTATION SENT BY THE PETITIONER TO THE 1ST RESPONDENT DT. 25.5.2000.

EXT.P5:- COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT TO THE PRINCIPAL , DENTAL COLLEGE, KOZHIKODE DT. 20.5.2000.

EXT.P4:- COPY OF THE ORDER OF THE 2ND RESPONDENT GO(RT) NO.2779/99/H &FWD DT. 11.10.99.

EXT.P7:- COPY OF THE REPRESENTATION SENT BY THE PETITIONER TO THE 1ST RESPONDENT DT. 20.11.2000.

EXT.P8:- COPY OF THE GO(P) NO.145/2000/H&FWD DT. 16.6.2000.

EXT.P9:- COPY OF THE JUDGMENT IN OP. 33833/01 OF THIS HONOURABLE COURT DT. 8.11.01.

EXT.P10:- COPY OF THE ORDER OF THE 1ST RESPONDENT DT. 24.2.02.

/TRUE COPY/

P.S. TO JUDGE

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.11375 of 2002-D

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Dated this the 26th day of July, 2007.

JUDGMENT

The petitioner, while a Senior Lecturer, was given placement as Assistant Professor as part of career advancement to protect financial benefits. He was regularly promoted as Assistant Professor only with effect from 6-11-1999. His claim for promotion as Associate Professor, as claimed by him, has, therefore, been turned down with reference to Clause IV.(b) of Ext.P8 which provides that Assistant Professors with five years of teaching experience (Physical) is one of the conditions for promotion. The benefit granted as a time bound career advancement as Assistant Professor cannot be treated as actual teaching experience which is what is meant by teaching experience (Physical). The mere drawing of scale of pay of Assistant Professor is not the criterion for reckoning the length of service of actual teaching experience as Assistant Professor. This is

primarily because, it is experience that counts and not the period spent in a particular scale that matters. So much so, the impugned Ext.P10 cannot be found fault with.

2. In so far as the plea of the petitioner that a similarly situated person has been given a benefit of such promotion is concerned, the contention of the respondents is that the same was an erroneous decision. So much so, an error by the administrative authority cannot form the foundation of a contention of hostile discrimination for being extended the benefit of an error. Needless to say, the Government are obliged to look into the case of such erroneous promotion also, if needed, in their wisdom.

In the result, the writ petition fails. The same is accordingly dismissed.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.11375 of 2002-D

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JUDGMENT

Dated: 26th July, 2007.